

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3389

DATE: November 7, 2002

SCHEDULED PLANNING COMMISSION MEETING:

DATE: November 27, 2002

PROPOSAL: Rezone approximately 0.9 acre of land from B-1 Local Business to H-2 Highway Business located at Highway 2 and Southwood Drive.

LAND AREA Approximately 0.9 acre.

CONCLUSION: The character and aesthetic qualities of this area are consistent with the 2025 Comprehensive Plan and the existing zoning. The proposed change of zone would allow uses not compatible with the residential character of this area.

<u>RECOMMENDATION:</u>

Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 38 I.T. and 39 I.T., located in the NE1/4 of Section 12, T9N, R6E, Lancaster County, Nebraska.

LOCATION: Highway 2 and Southwood Drive.

APPLICANT: Chee-Vee Limited Partnership
c/o Clifford Cheever
2600 Wimbledon Ct.
Lincoln, NE 68506

OWNER: same as Applicant

CONTACT: Mark Hunzeker
1045 Lincoln Mall, Ste. 200
Lincoln, NE 68508

EXISTING ZONING: B-1 Local Business

EXISTING LAND USE: Retail, restaurant, parking, landscaping.

SURROUNDING LAND USE AND ZONING:

North:	R-2 Residential	Single-family residential
South:	I-2 Industrial Park	Railroad
	P Public	Park, recreation, and open space
	R-2 Residential	Single-family residential
East:	B-1 Local Business	Retail commercial, tavern, bank
	R-1 Residential	Multiple-family residential
West:	B-1 Local Business	Retail commercial and professional services

HISTORY:

- Apr., 1982: Variance granted to allow a reduction of the required rear yard setback from 30' to 11' on Lot 39 I.T. to accommodate an addition to a restaurant. (BZA #1332)
- 1979: Prior to 1979, this property was zoned G Local Business. As part of the 1979 Update, the zoning was changed to B-1 Local Business.
- Apr., 1977: Public access easement granted over approximately the north 24' of Lot 38 I.T. and 39 I.T., then known collectively as Lot 28 I.T.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Comprehensive Plan designates this area as Commercial, with the open space immediately south of this property designated as Green Space.

- Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. (F 22)
- Preserve and enhance entryway corridors into Lincoln... (F 19)
- Commercial...districts in Lancaster County shall be located...so that they enhance entryways or public way corridors, when developing adjacent to these corridors. (F 38)
- Strip commercial development along transportation corridors is discouraged. (F 19)
- Strip commercial development is discouraged. Commerce Centers should not develop in a linear strip along a roadway nor be completely auto oriented. (F 41)
- Infill commercial development should be compatible with the character of the area... (F 49)

UTILITIES: Public utilities are available

TRAFFIC ANALYSIS: Highway 2 is designated as a Principal Arterial.
Southwood Drive is designated as a Collector Street.

AESTHETIC CONSIDERATIONS:

1. This portion of Highway 2 is an entryway corridor for Lincoln, as well as home to the Highway 2 Trail and abundant park/open space.

2. Highway 2 provides a pedestrian friendly, neighborhood oriented corridor. This character should be preserved through appropriate land uses. Highway 2 should not be allowed to develop in such a way as to look like Cornhusker Highway or West "O" Street.
3. The Building and Safety Department reports that neighbors and the State of Nebraska have filed verbal complaints regarding the illegal sale of automobiles from this property in the past. Automobiles have been placed in the Highway 2 right-of-way as well as in the public access easement over the common driveway.
4. The existing uses are those typically oriented towards local neighborhood and pedestrian traffic.
5. Strip developments are specifically discouraged by the 2025 Comprehensive Plan. This particular development is not a strip development in and of itself, however, the addition of more uses in between existing buildings will give the appearance of strip development.
6. A change of zone to H-2 Highway Business will allow the development of uses that would not blend as well into the residential character of the area, such as those that have outside storage. An automobile sales lot is almost exclusively conducted outside of a building. The introduction of outside storage will change the character of this area since none of the existing uses along and adjacent to this property have outside storage.
7. The existing parking lots along and adjacent to this property are required to conform to the City of Lincoln Design Standards. Specifically, these standards require landscape screening around the perimeter and lighting guidelines regarding light intensity level, uniformity of light distribution, and glare. (Design Standards §§ 3.7 and 3.8) However, parking areas used for the storage of automobiles for sale are not considered parking lots for purposes of these regulations. Therefore, the visual character of the vehicle storage area for the proposed use will not be consistent with the rest of the parking areas along and adjacent to this property.
8. Rezoning this property to H-2 Highway Business from B-1 Local Business will allow larger signs. On-premises signs for multiple businesses on one lot will be allowed up to 150 square feet versus 50 square feet now allowed. Also, off- premises signs will be allowed up to 700 square feet versus 300 square feet now allowed. There is already one off-premises sign along this development; this sign is located immediately west of the west property line of Lot 39 I.T. At this time, the existence of this off-premises sign would act to prohibit the erection of a new one. However, should this one ever be abandoned and removed, a new and larger one would be allowed under H-2 zoning.

ANALYSIS:

1. The intention of the B-1 Local Business District is to “provide a stable area of local retail relating to existing communities and existing neighborhoods. It provides for functional business uses to serve those communities and neighborhoods.” (Zoning Ord., p. 27-67) By comparison, the H-2 Highway Business District is “for a redeveloping area intended to provide business and services oriented to major arterial streets.” (Zoning Ord., p. 27-87)
2. This property has been designated as Local Business since before the 1979 update. The character of the surrounding uses and the appearance of Highway 2 have all benefitted from this designation.
3. The current designation of B-1 Local Business does not require a side yard setback. However, the H-2 Highway Business district does require a 5' side yard setback. Applicant would need to meet this requirement if the zoning is changed.
4. The character of existing uses relates well to the needs of the surrounding neighborhoods by providing services commonly used on a day-to-day basis. The nature of this area and of the existing uses are consistent with the 2025 Comprehensive Plan and with the existing zoning designation. The character of existing uses is not necessarily oriented toward the traveling public.
5. Automobile sales lots typically utilize high intensity lighting that spills over onto adjacent properties and can cause glare problems resulting in inconvenience to neighbors and even hazards to passing motorists.
6. A change of zone to H-2 Highway Business would allow certain uses not compatible with the residential character of the area, specifically warehouses, recycling centers, shops for major mechanical automobile repair, automobile body repair shops, automobile sales, and sexually oriented live entertainment establishments. None of these uses are allowed under the existing B-1 Local Business zoning.

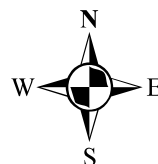
Prepared by:

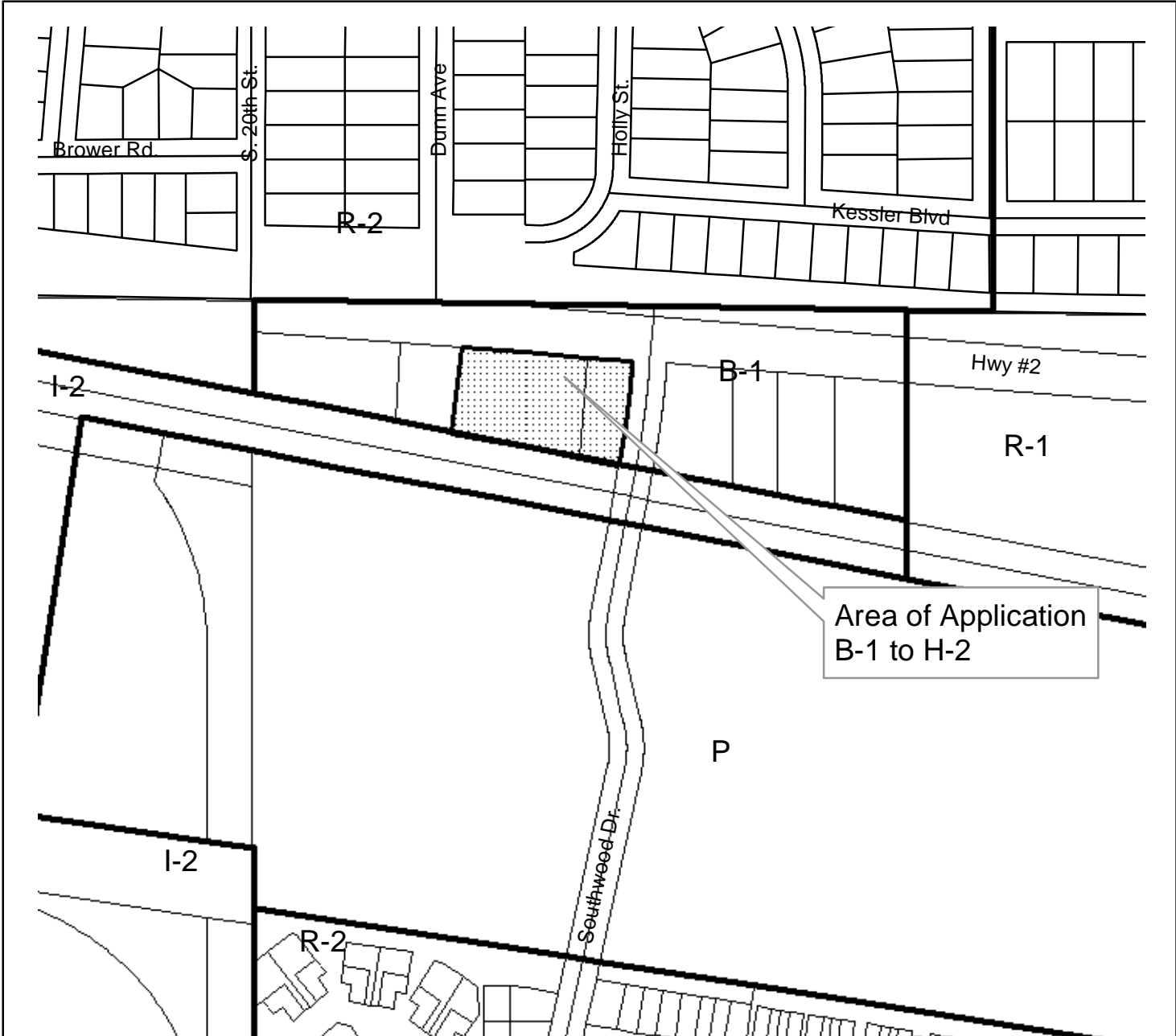
Greg Czaplewski
Planner

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Change of Zone #3389 **Southwood Dr. & Hwy #2**

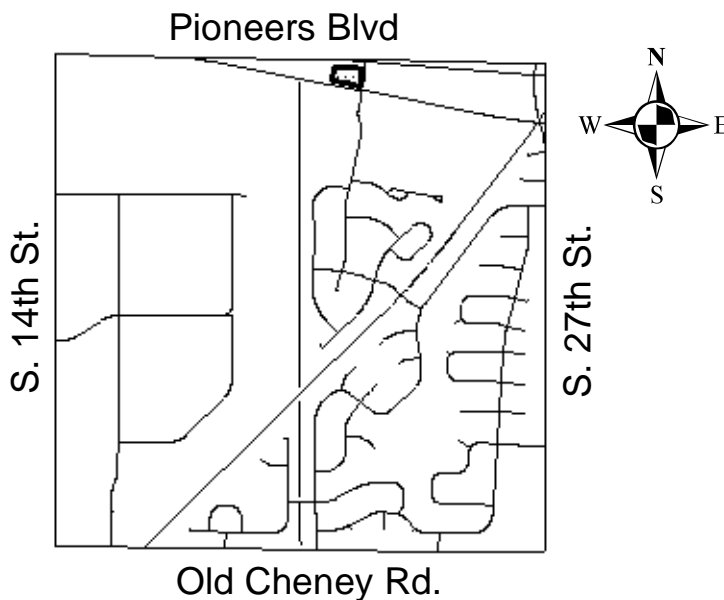
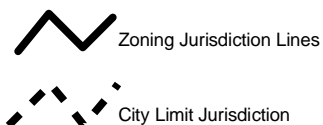


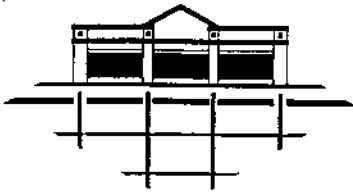


Change of Zone #3389 **Southwood Dr. & Hwy #2** **Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
 Sec. 12 T9N R6E





BRIAN D. CARSTENS AND ASSOCIATES

LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN

601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

October 30, 2002

Mr. Marvin Krout
Director of Planning
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: CHANGE OF ZONE FROM B-1 TO H-2
2105 AND 2109 HIGHWAY 2

Dear Marvin,

On behalf of the owner, we submit the following change of zone for your review. The current tenant of the 2105 Highway 2 building (Hi-Way Diner) would like to use a portion of the site to sell approximately 8 - 10 automobiles from this location. The current zoning does not allow for the sale of automobiles.

The proposed H-2 zoning will require additional parking stalls. We have prepared exhibits to show that the site can be 're-striped' to accommodate the additional required stalls, without expanding the current paved area.

Please feel free to contact Mark Hunzeker at 476-7621 or myself if you have any further questions.

Sincerely,

Brian D. Carstens

cc: Mark Hunzeker
Cliff Cheever - Chee-Vee Limited Partnership
Gary Walker- Hi-Way Diner

ENCLOSURES: Application for a Change of Zone
Application fee of \$585.00
Exhibits of existing and proposed parking 're-striping'

REMBOLT LUDTKE & BERGER LLP

ATTORNEYS AT LAW

1201 LINCOLN MALL, SUITE 102

LINCOLN, NEBRASKA 68508

(402) 475-5100

FAX (402) 475-5087

WWW.REMLUD.COM

November 19, 2002

OF COUNSEL

JOHN H. BINNING

—SEWARD OFFICE—

125 SOUTH 6TH STREET

SEWARD, NE 68434

(402) 643-4770

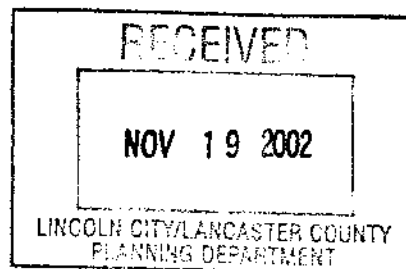
FAX (402) 643-3969

† ALSO ADMITTED IN COLORADO

JAMES E. REMBOLT
DAVID A. LUDTKE
PENNY J. BERGER
ALAN D. SLATTERY
ROBERT L. NEFSKY
PETER C. WEGMAN
KEVIN C. SIEBERT
RICK D. LANGE
DANIEL E. KLAUS †
TIMOTHY F. CLARE
TIMOTHY L. MOLL
JANE F. LANGAN
MARK A. FAHLESON
MICHELLE S. KUGLER
BRITT J. EHLERS
BRIAN S. KRUSE
AMY J. VYHLIDAL

HAND DELIVERED

Lincoln-Lancaster County Planning Commission
c/o Planning Department
555 South 10th Street
Lincoln, NE 68508



RE: Application for Change of Zone
Southwood Drive and Highway 2
2105 Highway 2
Lincoln, Nebraska

Dear Commissioners:

This firm represents Rory and Connie Mueller, and Mueller Recreational Products, Inc., d/b/a Cornhusker Billiards ("Cornhusker Billiards"). My clients operate a retail store at 2019 Highway 2, Lincoln, Nebraska.

My clients oppose the proposed change of zone submitted by Chee Vee Limited Partnership. The change of zone involves property immediately east of Cornhusker Billiards.

If approved, this change of zone will permit a used car dealer to operate from this site. Presently, the occupant is storing and selling used cars in violation of the zoning ordinance. Because the site is already operated as a car lot, my clients have experienced some of the problems which will only get worse if the zoning change is approved and the excess spills over onto the Cornhusker Billiards lot. The portion of the site from which cars would be sold is too small, and it is already causing problems because the dealer and his customers typically park on, and trespass onto the Cornhusker Billiard parking lot to exit.

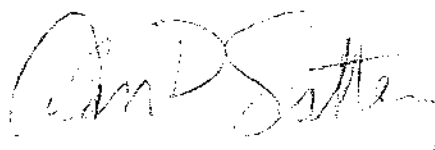
Access is another important issue. The only access to Cornhusker Billiards is along a 24' wide easement west from Southwood Drive. I have attached a drawing which shows the location. This drive gets congested because customers of Hi-Way Diner and the used car business park on the drive, rather than in the parking lot. Further, the used car dealer has parked cars in the right of way of Highway 2, causing more congestion. This makes it very difficult for semis and other trucks bringing inventory to our business to enter and exit our premises on the easement drive. This property was not designed for such intense uses.

It is also doubtful that the parking lot design on the west side of the building would comply with the City design standards.

Comhusker Billiards maintains and keeps up its property, which is very important for a retail operation. The storage of used cars on the adjoining site will detract from this entrance to the City along Highway 2. Public officials should continue to restrict the areas of the City in which used car lots can operate. If approved, this would constitute illegal spot zoning.

My clients object to the change of zone, and respectfully request that the application be denied. Thank you for your consideration of their concerns.

Sincerely,

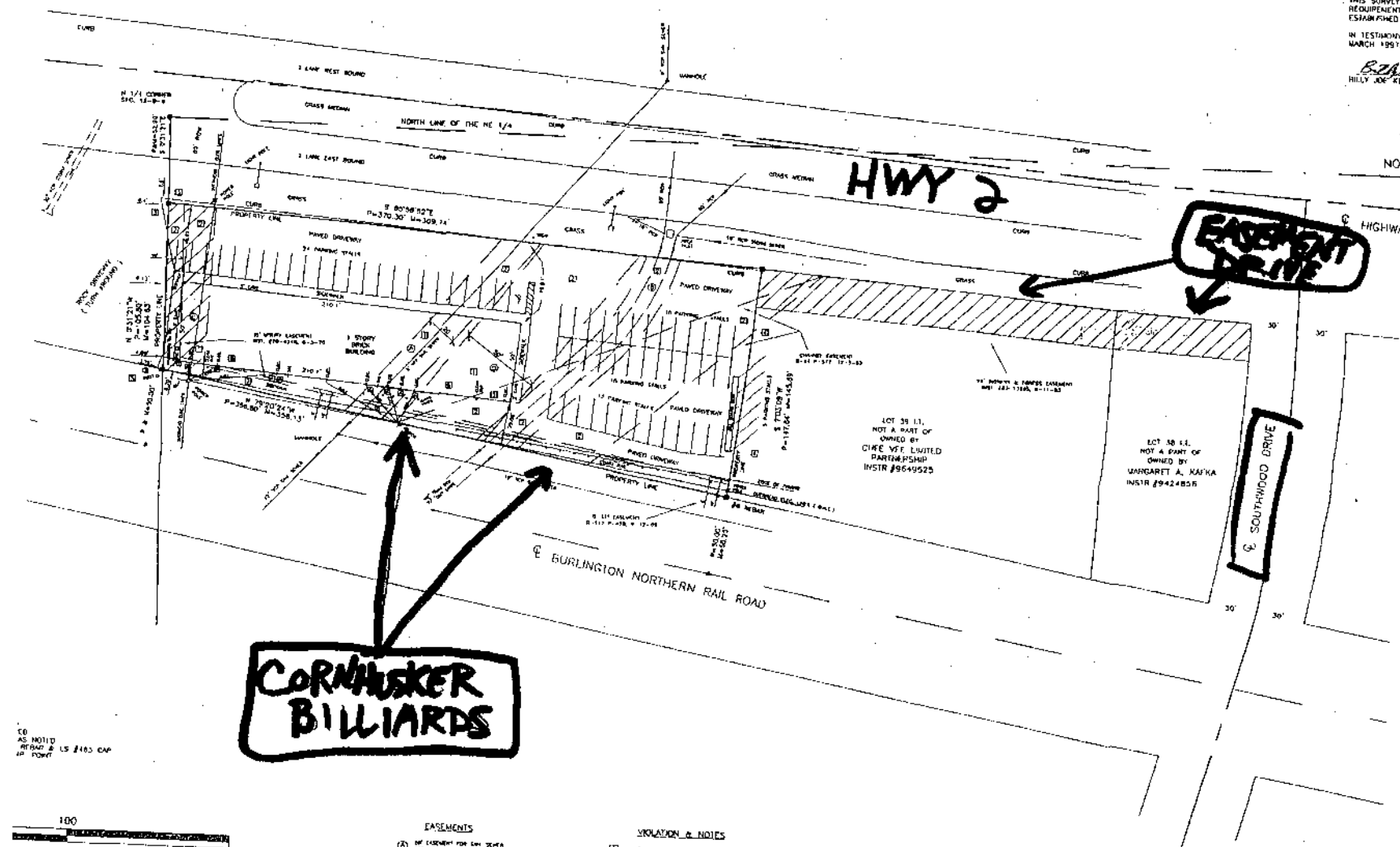
A handwritten signature in dark ink, appearing to read "Alan D. Slattery". The signature is fluid and cursive, with the first name "Alan" and last name "Slattery" clearly distinguishable.

Alan D. Slattery

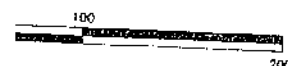
Enclosure

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November 19, 2002

THIS SURVEY &
REQUIREMENTS
ESTABLISHED A
IN TESTIMONY
MARCH 1997.
BZA
HILLY JOE "K"



CO
AS NOTED
REFLECT & LS #165 CAP
AP POINT



IN THE CONTIGUOUS OF ZONE "C" AS DETERMINED BY
-273, PLAN 0045 C, REVISED 3-18-88.

- EASEMENTS**
- (A) OF EASEMENT FOR GAS SERVICE
REF. 15, 16, 17, 18, 19 & 20
P-118 P-119 P-120 P-121
 - (B) 11' FROM OTHER EASEMENT
REF. 21, 22, 23, 24, 25 & 26
 - (C) 11' FROM OTHER EASEMENT
REF. 27, 28, 29, 30, 31 & 32
 - (D) OF EASEMENT FOR CHANNEL
P-122 P-123 P-124 P-125

- VIOLATION & NOTES**
- (1) SUBJECT PROPERTY BEHIND IN VIOLATION
OF THE REQUIREMENTS AS SHOWN
 - (2) NOTE: CONVICTION IS OTHER EASEMENTS
AS SHOWN
 - (3) NOTE: CONVICTION IS OTHER EASEMENTS
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 - (8) NOTE: CONVICTION IS OTHER EASEMENTS
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D-1 ZONING REQUIREMENTS
MAY 8, 1975
PROVIDE 50'
FROM ROAD 20'
SIDE YARD 10', SETBACK BY CITY
REAR YARD 20' OR 30% OF DEPTH (428)
HEIGHT 40'